

UNITED STATES OF AMERICA ex rel.,
JOHN TIMOTHY DONEGAN,

Plaintiff and Relator,

v.

ANESTHESIA ASSOCIATES OF
KANSAS CITY, PC,

Defendant.

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KANSAS CITY, PC,)
)
Defendant.)

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under federal common law they cannot survive the Relator's death. In response, the Administrator concedes that Count IV's state-law retaliation claim has abated, but argues every other claim is still viable.

Defendant's argument is without merit. Substitution of a relator's estate upon the death of the relator is a routine and accepted method by which *qui tam* litigation proceeds. *United States v. ex rel. Colucci v. Beth Israel Med. Ctr.*, 603 F. Supp. 2d 677, 681 (allowing substitution, noting "the majority of courts that have considered the question . . . hold that *qui tam* actions brought under the FCA survive the death of the relator."). More importantly, the Eighth Circuit has clarified recently that the FCA—including its penalty provision—is remedial in nature. *United States v. Aleff*, 772 F.3d 508, 511 (8th Cir. 2014).

Accordingly, the Administrator's motion (Doc. 269) is GRANTED IN PART. The Estate of John Timothy Donegan is substituted for Relator John Timothy Donegan on all claims except Count IV, which is dismissed. The Court also recognizes the adoption of all actions related to this litigation (for example, responding to Defendant's motion for summary judgment, filing a motion for summary judgment, etc.) taken by the Administrator since Donegan's passing.

IT IS SO ORDERED.

Date: May 14, 2015

/s/ Greg Kays
GREG KAYS, CHIEF JUDGE
UNITED STATES DISTRICT COURT